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11  
12 **UNITED STATES DISTRICT COURT**  
13 **DISTRICT OF ARIZONA**  
14

15 State of Arizona, *ex rel.* Kristin K. Mayes,  
16 Attorney General, *et al.*,

17 Plaintiffs,

18 v.

19 Michael D. Lansky, L.L.C., dba Avid  
20 Telecom, *et al.*,

21 Defendants.  
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Case No.: 4:23-cv-00233-TUC-CKJ

(Assigned to the Hon. Cindy K. Jorgenson)

**PLAINTIFFS' OPENING BRIEF ON  
DISCOVERY DISPUTES**

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Plaintiffs brought this lawsuit to protect consumers from Defendant Michael D. Lansky, LLC, dba Avid Telecom (“Defendant Avid Telecom”) – and its co-defendants Michael D. Lansky’s (“Defendant Lansky”) and Stacey S. Reeves’ (“Defendant Reeves”) – illegal telemarketing and robocall schemes. As set forth in the Complaint, Defendants Avid Telecom, Lansky and Reeves are in the business of providing Voice over Internet Protocol (“VoIP”) services, facilitating or initiating robocalls, and/or helping others make illegal robocalls – in violation of multiple state and federal laws.

To date, Defendant Avid Telecom and Defendant Lansky have not produced a single responsive document in response to Plaintiffs’ Requests for Production of Documents, and Defendant Reeves’ production is wholly insufficient under the Court’s ESI Order and the Federal Rules of Civil Procedure [Dkt. #120]. Moreover, Defendants’ untimely responses to Plaintiffs Requests for Production are replete with errors, and rely entirely on evasive and boilerplate objections. Despite Plaintiffs’ repeated efforts to meet and confer with defense counsel in order to resolve these deficiencies without judicial involvement, Defendants have persisted in delay and obstruction - often misrepresenting the record in correspondence to both Plaintiffs’ counsel and the Court. Having exhausted all reasonable efforts to resolve these discovery disputes, Plaintiffs are left with no alternative but to seek relief from the Court, including leave to file motions to compel and the appointment of a discovery referee or magistrate.

**II. RELEVANT FACTS**

On February 21, 2025, Plaintiffs served Defendant Avid Telecom with Plaintiffs’ First Set of Requests for the Production of Documents (“Requests”). *See* Declaration of Sarah Pelton (“Decl.”), dated August 27, 2025 at ¶ 3, Ex. A. On March 6, 2025, Plaintiffs also served Requests on Defendant Lansky and Defendant Reeves. Decl. at ¶ 4, Exs. B-C. The Requests sought production of relevant and admissible evidence in each Defendants’ possession related to Plaintiffs’ causes of action under the Telemarketing and Consumer

1 Fraud and Abuse Prevention Act, the Telemarketing Sales Rule, the Telephone Consumer  
2 Protection Act, the Truth in Caller ID Act, as well as other state and federal laws and  
3 Defendants' claimed defenses thereto.

4 Pursuant to Rule 34(b)(2), Defendant Avid Telecom was required to provide  
5 responses to Plaintiffs' Requests by March 24, 2025, while Defendants Lansky and Reeves  
6 were required to serve their responses by April 7, 2025. Decl. at ¶ 5. However, in violation  
7 of Rule 34(b)(2), none of the Defendants provided timely responses to Plaintiffs' Requests  
8 by the required deadlines. Decl. at ¶ 6. For almost two weeks, Plaintiffs' counsel sought  
9 updates from Defendants regarding the status of their overdue responses. Despite no  
10 rational explanation from Defendants as to why they failed to timely serve responses, the  
11 parties ultimately stipulated to an April 30, 2025 deadline for all Defendants to respond to  
12 Plaintiffs' Requests. Decl. at ¶¶ 7-9, Exs. D-G. However, on April 30, 2025, none of the  
13 Defendants provided any responses to Plaintiffs' Requests. After missing the April 30,  
14 2025 deadline, defense counsel stated that responses for all three Defendants would be  
15 completed by May 2, 2025. Decl. at ¶ 10, Ex. H. However, on May 2, 2025, defense counsel  
16 served three identical responses on behalf of Defendant Lansky that were laden with  
17 boilerplate and evasive objections and failed entirely to provide any responses from  
18 Defendants Avid Telecom or Reeves. Decl. at ¶ 11, Exs. I-J. Accordingly, on May 5, May  
19 6, and May 7, 2025, Plaintiffs' counsel emailed defense counsel requesting Defendants  
20 Avid Telecom's and Reeves' responses to Plaintiffs' Requests. Decl. at ¶ 12, Exs. K-M.  
21 Defense counsel did not respond to Plaintiffs' May 5, 6, or 7, 2025 correspondence. Decl.  
22 at ¶ 13.

23 On May 16, 2025, Plaintiffs' counsel sent a meet and confer email to defense  
24 counsel detailing the substantive deficiencies in Defendant Lansky's responses and  
25 addressing Defendants Avid Telecom's and Reeves' waiver of objections due to their  
26 complete failure to respond at all to Plaintiffs' Requests. Decl. at ¶ 14, Ex. N. Defense  
27 counsel did not respond to Plaintiffs' May 16, 2025 correspondence. Decl. at ¶ 15. On May  
28 27, 2025, Plaintiffs' counsel again emailed defense counsel requesting their availability for

1 a meet and confer. Decl. at ¶ 16, Ex. O. The next day, May 28, 2025, defense counsel  
2 replied that they would “try to have a substantive response for you later today or  
3 tomorrow.” Decl. at ¶ 17, Ex. P. However, defense counsel failed to follow through. Decl.  
4 at ¶ 18.

5 With over three months having passed since Plaintiffs originally served their  
6 Requests - and still with no responses from Defendant Avid Telecom and Defendant  
7 Reeves, and inapplicable and boilerplate objections from Defendant Lansky - Plaintiffs’  
8 counsel called the Court on June 19, 2025 to obtain permission to file motions to compel  
9 Defendants’ responses. Decl. at ¶ 19. The Court directed the parties to participate in, or at  
10 the very least schedule, a meet and confer by June 27, 2025. That same day, Plaintiffs’  
11 counsel emailed defense counsel to arrange a date and time to meet and confer, which  
12 defense counsel ignored. Decl. at ¶¶19-20, Ex. Q.

13 On or about June 30, 2025, Plaintiffs notified the Court to that effect. Decl. at ¶ 21.  
14 As a result, the Court issued its July 1, 2025 Order [Dkt. #118], requiring the parties to  
15 meet and confer regarding Plaintiffs’ Requests by July 11, 2025. Accordingly, on July 2,  
16 2025, Plaintiffs’ counsel again emailed defense counsel seeking their availability to meet  
17 and confer. Decl. at ¶ 22, Ex. R. On July 3, 2025, defense counsel responded and stated  
18 their availability for a meet and confer on July 9, 2025, on the condition that “an AG who  
19 is employed by each Lead State and each State with a claim based on state law” be present.  
20 Decl. at ¶ 23, Ex. S. Defense counsel further conditioned their availability on the parties  
21 setting aside “at least 2-3 hours” to discuss Defendants’ outstanding discovery requests. *Id.*

22 As the Court’s order [Dkt. #118] referred only to disputes “raised by Plaintiffs”,  
23 Plaintiffs’ counsel replied confirming the date strictly as to the overdue responses owed to  
24 Plaintiffs and offered alternative dates to meet and confer regarding Defendants’ concerns.  
25 Decl. at ¶ 24, Ex. T. Defense counsel later agreed to meet on July 15, 2025 to discuss  
26 Defendants’ concerns.

27 Plaintiffs’ meet and confer occurred as scheduled. Defense counsel agreed to  
28 provide Defendant Avid Telecom’s and Defendant Reeves’ first written responses to

1 Plaintiffs' Requests by July 11, 2025, and provide Defendant Lansky's supplemental  
2 written responses by July 15, 2025. Plaintiffs agreed to defense counsel providing a  
3 response as to when to expect Defendants' document production by July 11, 2025. Decl.  
4 at ¶ 25, Ex. U.

5 On or around July 11, 2025, defense counsel provided its first document production  
6 as to Defendant Reeves – around 320 documents in total. In the same communication,  
7 defense counsel indicated they would make the first document production for Defendant  
8 Avid Telecom and supplement Defendant Reeves' production by July 15, 2025. Defense  
9 counsel made no representations as to when Plaintiffs could expect any document  
10 production from Defendant Lansky, and erroneously stated that Defendant Lansky agreed  
11 to produce documents in response to 93 of Plaintiffs' 103 document requests. Decl. at ¶ 26,  
12 Ex. V. In response, Plaintiffs correctly explained that 106 Requests were served, and  
13 Defendant Lansky agreed to produce documents to only 79 Requests. Additionally,  
14 Plaintiffs noted that Defendant Reeves' initial production was deficient and did not comply  
15 with the terms of the Court's entered ESI Order [Dkt. #120] – most notably, none of the  
16 documents were marked with Bates numbers or provided guidance as to which documents  
17 corresponded to which of Plaintiffs' requests. Decl. at ¶ 27, Ex. W. Defense counsel  
18 responded, initially stating that their documents *did* include Bates numbering to both  
19 Plaintiffs' counsel and the court, but did not provide Bates stamped documents until after  
20 these representations on August 14. To date, Defendant Reeves has still not provided any  
21 information to identify the requests to which each document produced is responsive. Decl.  
22 at ¶ 28-29, Exs. X-Z.

23 Defense counsel's meet and confer occurred as scheduled on July 15th. Defense  
24 counsel requested attendance of all state claims states and the lead states. Despite Plaintiffs'  
25 counsel's urging for defense counsel to identify disputes for discussion in advance, defense  
26 counsel Greg Taylor appeared unprepared to discuss a majority of their disputes. Decl. at  
27 ¶ 30, Ex. BB. Counsel Neil Ende did not attend the meet and confer. Defense counsel later  
28

1 sent an email asking Plaintiffs to respond to a written meet and confer letter instead of  
2 further telephonic correspondence. Decl. at ¶ 30, Ex. AA.

3 On or around July 18, 2025, defense counsel emailed Plaintiffs' counsel finally  
4 acknowledging they had "inadvertent[ly]" produced the same three responses to Plaintiffs'  
5 Requests that defense counsel initially sent on May 2, 2025. Defense counsel promised  
6 written responses for all Defendants by July 21, 2025. Decl. at ¶ 31, Ex. CC. Defense  
7 counsel sent Defendant Reeves' first written responses on July 21, 2025 and Defendant  
8 Avid Telecom's first written responses on July 22, 2025. Decl. at ¶¶ 32-33, Exs. DD-EE.  
9 Defense counsel has not sent Defendant Lansky's supplemental responses or any document  
10 production from Defendants Lansky or Avid Telecom. Decl. at ¶ 34.

### 11 **III. ARGUMENT**

#### 12 **a. Defendants' Responses to Plaintiffs' First Set of Requests for the** 13 **Production of Documents are Vague, Evasive, and Violate the Federal** 14 **Rules of Civil Procedure.**

##### 15 **i. Defendants Violated Rule 34 of the Federal Rules of Civil** 16 **Procedure and Waived Their Ability to Assert Any Objections.**

17 Rule 34 of the Federal Rules of Civil Procedure obligates the party to whom a  
18 request for production is directed to respond in writing to the requests within 30 days after  
19 being served. *See* Fed. R. Civ. P. 34(b)(2). The failure to provide specific, timely objections  
20 to the requests for production results in waiver. *See Richmark Corp. v. Timber Falling*  
21 *Consultants*, 959 F.2d 1468, 1473 (9th Cir. 1992) ("It is well established that a failure to  
22 object to discovery requests within the time required constitutes a waiver of any  
23 objection."); *see also Davis v. Fendler*, 650 F.2d 1154, 1160 (9th Cir. 1981) (failure to  
24 object within the time limits established by the Federal Rules waives all objections,  
25 including objections on the basis of privilege); *see also Marx v. Kelly, Hart & Hallman,*  
26 *P.C.*, 929 F.2d 8, 10, 12-13 (1st Cir. 1991) (affirming district court order that objections to  
27 requests for production were waived by a party's failure to make timely objections).  
28

1 Here, Defendant Avid Telecom was served with Plaintiffs' Requests on February  
2 21, 2025. Defendants Reeves and Lansky were served with Plaintiffs' Requests on March  
3 6, 2025. After multiple accommodations and extensions granted by Plaintiffs to extend the  
4 final deadline to respond by May 2, 2025, defense counsel produced three identical  
5 Responses for all Defendants addressed for Defendant Lansky, and thereby failed to  
6 provide Defendants Reeves' and Avid Telecom's Responses to the Plaintiffs' Requests  
7 within the 30-day deadline required by Rule 34(b)(2). Pursuant to Rule 34 of the Federal  
8 Rules of Civil Procedure, Defendants Avid Telecom and Reeves have waived any  
9 objections to Plaintiffs' Requests. *See* Fed. R. Civ. P. 34(b)(2); *see also Richmark Corp.*,  
10 959 F.2d at 1473.

11 Defendant Reeves' and Defendant Avid Telecom's Responses were not received  
12 until July 21, 2025, and July 22, 2025, respectively—more than two months after Plaintiffs  
13 notified defense counsel that they sent three identical Responses for all Defendants. Despite  
14 being advised by Plaintiffs that all objections, since served late, are waived, both  
15 Defendants' Responses were replete with objections. Defendants' untimely objections  
16 failed to provide the specific manner, date and time that Defendants will produce  
17 responsive documents as required by Rule 34(b). *See* Fed. R. Civ. P. 34(b)(2); *Jayne H.*  
18 *Lee, Inc. v. Flagstaff Indus. Corp.*, 173 F.R.D. 651, 656 (D. Md. 1997) (“a response to a  
19 request for production of documents which merely promises to produce the requested  
20 documents at some unidentified time in the future, without offering a specific time, place  
21 and manner, is not a complete answer as required by Rule 34(b) and, therefore, pursuant to  
22 Rule 37(a)(3) is treated as a failure to answer or respond.”).

23 Likewise, despite agreeing to produce all documents responsive to certain of  
24 Plaintiffs' Requests, Defendant Lansky also failed to provide the specific manner, date and  
25 time that he will produce such responsive documents as required by Rule 34(b). When  
26 responding to a request for production, the responding party must alert other parties to the  
27 fact documents have been withheld and thereby facilitate an informed discussion of the  
28 objection. *See* Fed. R. Civ. P. 34(b)(2)(C); *Murillo v. Arizona*, No. CV-20-01580-PHX-



1 SPL (JZB), 2023 WL 2540245, at \*2-3 (D. Ariz. Mar. 16, 2023). It is not Plaintiffs' burden  
 2 to guess whether Defendant Lansky withheld any relevant and responsive information from  
 3 production for these Requests.

4 Accordingly, each Defendant must supplement their Responses<sup>1</sup> to Plaintiffs'  
 5 Requests for Production and provide the specific manner and date certain as to when each  
 6 will complete production of all responsive documents/communications.

7 **ii. Defendants' Untimely Responses are Improper Under Rule**  
 8 **34(b)(2)(C) of the Federal Rules of Civil Procedure.**

9 Rule 34 requires an objection to "state whether any responsive materials are being  
 10 withheld on the basis of that objection." *See* Fed. R. Civ. P. 34(b)(2)(C). Here, the untimely  
 11 responses served by Defendants are improper under Rule 34(b)(2)(C) because they fail to  
 12 provide Plaintiffs with any information as to whether Defendants are withholding any  
 13 responsive documents on the basis of any privilege.

14 In response to certain of Plaintiffs' Requests<sup>2</sup>, Defendants stated they "will produce  
 15 any non-privileged, responsive documents" in each's possession, custody or control."  
 16 However, Defendants' Responses are improper under Rule 34(b)(2)(C) because they fail  
 17 to provide Plaintiffs with any information as to whether Defendants are withholding any  
 18 responsive documents on the basis of any privilege. When responding to a request for  
 19 production, the responding party must alert other parties to the fact that documents have  
 20 been withheld and thereby facilitate an informed discussion of the objection. *See* Fed. R.  
 21 Civ. P. 34(b)(2)(C); *Murillo v. Arizona*, No. CV-20-01580-PHX-SPL (JZB), 2023 WL  
 22 2540245, at \*2 (D. Ariz. Mar. 16, 2023). It is not Plaintiffs' burden to guess whether any  
 23 relevant and responsive information has been withheld from production for certain  
 24 Requests. Accordingly, Defendants must supplement their responses to certain Requests  
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26 <sup>1</sup> For Defendant Reeves, Request Nos. 1-18, 20-55, 63, 65, 81-84, 86, 89-102; for Defendant Avid Telecom,  
 27 Nos. 1-24, 27-39, 41-42, 44-45, 48-55, 57-60, 64 subsection j, 66, 72, 76, 92-95, 98; and for Defendant  
 28 Lansky, Nos. 1, 10-20, 31-37, 45, 48, 63, 65-80, 83-89, 92, 103-104.

<sup>2</sup> For Defendant Reeves, this includes Request Nos. 1-18, 20-55, 63, 65, 81-84, 86, and 89-102. For  
 Defendant Avid Telecom, this includes Request Nos. 1-24, 27-39, 41-42, 44, 48-55, 57-60, 66, 72, 76, 92-  
 95, and 98. For Defendant Lansky, this includes Request Nos. 1, 26-27, 92-96 and 105-106.



1 and state whether they are withholding any privileged responsive documents and state the  
 2 specific manner, date and time by which they will complete their production of all “non-  
 3 privileged” responsive documents and/or communications.

4 **iii. Defendants’ Responses Are Evasive, Vague and Rely Entirely on**  
 5 **Boilerplate Objections.**

6 Defendants’ responses are evasive, vague and rely entirely on waived and meritless  
 7 objections. To be effective, an objection must be specific and state whether any responsive  
 8 materials are being withheld on the basis of that specific objection. *See* Fed. R. Civ. P.  
 9 34(b)(2)(B); *see also Militante v. Banner Health*, No. CV-22-0352-PHX-DWL (JFM),  
 10 2023 WL 12073895, at \*3 (D. Ariz. Dec. 20, 2023). The burden is on the party resisting  
 11 discovery to show discovery should not be allowed and to justify his asserted objections  
 12 with sufficient information. *See U.S. ex rel. O’Connell v. Chapman Univ.*, 245 F.R.D. 646,  
 13 648 (C.D. Cal. 2007). When asserting claims of privilege or work product protection, the  
 14 objecting party must provide sufficient factual information to enable the other parties to  
 15 evaluate the merits of the claim, including a privilege log if necessary. *See* Fed. R. Civ. P.  
 16 26; *see also United States v. Martin*, 278 F.3d 988, 1000 (9th Cir. 2002), *amended on denial*  
 17 *of reh’g*, 2002 U.S. App. LEXIS 3886 (Mar. 13, 2002) (“A party claiming the privilege  
 18 must identify specific communications and the grounds supporting the privilege as to each  
 19 piece of evidence over which privilege is asserted. Blanket assertions are extremely  
 20 disfavored.”) (quotations and citations omitted). In addition, the objecting party must show  
 21 a particularized harm is likely to occur if the requesting party obtains the information that  
 22 is the subject of the particular objections. *See Collins v. Landry’s Inc.*, 2:13-CV-01674-  
 23 JCM-VCF, 2014 WL 2770702, at \*3 (D. Nev. June 17, 2014). Boilerplate, generalized  
 24 objections are inadequate and tantamount to not making any objection at all. *See Walker v.*  
 25 *Lakewood Condo. Owners Ass’n*, 186 F.R.D. 584, 587 (C.D. Cal. 1999).

26 The Requests at issue seek relevant and admissible evidence related to Plaintiffs’  
 27 causes of action under state and federal laws protecting consumers against deceptive and  
 28 illegal telemarketing practices and Defendants’ claimed defenses thereto. Specifically, the

1 Requests seek evidence relating to: Defendants’ direct or indirect knowledge of and  
 2 involvement in transmitting millions of prerecorded calls<sup>3</sup>; Defendants’ knowledge of and  
 3 compliance with applicable federal and state laws and regulations<sup>4</sup>; any procedures in place  
 4 to prevent – or even significantly mitigate – illegal behavior onto and across Defendants’  
 5 Avid Telecom’s network<sup>5</sup>; Defendants’ prior inconsistent statements regarding knowledge  
 6 of and compliance with applicable federal and state laws and regulations<sup>6</sup>; the veracity of  
 7 Defendant Reeves’ claimed independent contractor status<sup>7</sup>; and Defendants’ asserted  
 8 affirmative defenses.<sup>8</sup>

9 In response to these Requests, Defendants posit the same boilerplate objections,  
 10 over and over, without explaining how those objections actually apply. Namely,  
 11 Defendants state that the Requests are vague, ambiguous, irrelevant, overbroad,  
 12 burdensome, require legal conclusions, seek documents obtainable from other sources, and  
 13 seek documents protected from disclosure by various (some even inapplicable) privileges.  
 14 But Defendants’ boilerplate and generalized objections are inadequate under the Rules and  
 15 are tantamount to no objection at all. *See Walker*, 186 F.R.D. at 587; *Burns v. Imagine*  
 16 *Films Entertainment, Inc.*, 164 F.R.D. 589, 592–93 (W.D.N.Y. 1996) (general objections  
 17 that discovery request was unduly burdensome were not sufficiently specific to allow court  
 18 to ascertain objectionable character of discovery request and were improper); *Sabouri v.*  
 19 *Ohio Bureau of Emp. Services*, 2:97-CV-715, 2000 WL 1620915, at \*5 (S.D. Ohio 2000)  
 20 (“Fed.R.Civ.P. 34 requires production of a document that is in the ‘possession, custody or  
 21 control’ of a party; the fact that the document may also be available from another source is  
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23 <sup>3</sup> E.g. Requests to Reeves Nos. 62, 64, 66, 85; Requests to Avid Telecom Nos. 25-26, 40, 43, 46-47, 56, 61-  
 24 63, 67-71, 73-75, 77; Requests to Lansky Nos. 1, 2, 3, 7, 19, 23-28, 34-36, 39-45, 47-52, 59-60, 81-83, 92-  
 95, 97-100, 102-106.

25 <sup>4</sup> E.g. Request to Reeves Nos. 56-62, 64, 66, 85; Request to Avid Telecom Nos. 25-26, 40, 43, 46-47, 56,  
 61-63, 64 subsections a.–i., 65, 67-71; Request to Lansky Nos. 4-6, 8-9, 17-18, 20-22, 30-33, 37, 46, 53-  
 26 55, 63-64, 66, 90, 96, 101.

27 <sup>5</sup> E.g. Request to Reeves Nos. 56-60, 62, 64, 66, 85; Request to Avid Telecom Nos. 25-26, 40, 43, 46-47,  
 56, 61-63, 65; Request to Lansky Nos. 16, 29, 61-62, 91.

28 <sup>6</sup> E.g. Request to Reeves Nos. 56-57; Requests to Avid Telecom Nos. 67-71; Request to Lansky No. 57.

<sup>7</sup> E.g. Request to Reeves Nos. 56-60, 85; Request to Lansky No. 38.

<sup>8</sup> E.g. Request to Reeves Nos. 61, 67-80, 87-88; Request to Avid Telecom Nos. 78-91, 96-97; Request to  
 Lansky Nos. 10-15.

1 irrelevant.”); *Soto v. City of Concord*, 162 F.R.D. 603, 619 (N.D. Cal. 1995) (“[A]ctual  
2 possession of the requested documents is not required. A party may be ordered to produce  
3 a document in the possession of a non-party entity if that party has a legal right to obtain  
4 the document or has control over the entity who is in possession of the document.”)  
5 (internal quotations and citations omitted).

6 Here, Defendants’ objections are unsupported and not well taken. Defendants’  
7 objection that certain requests “contain terms that are not defined with sufficient  
8 specificity” is baseless. The terminology in Plaintiffs’ Requests is reasonable and drawn  
9 from commonly understood and well-established language. Moreover, Defendants’  
10 definitional objections are undermined by their own conduct, as they agreed to produce  
11 documents in response to other Requests while asserting the very same objection.  
12 Defendants’ claim of an undue burden is undermined in the same fashion. Defendants also  
13 provided zero explanation as to, for example, why or how providing communications,  
14 interactions, or account history logs with suppliers or customers would require them to  
15 “reach one or more legal conclusions.”

16 Finally, Defendants’ privilege objections are unsubstantiated and provide no factual  
17 basis for Plaintiffs to evaluate the validity of their privilege claims. Defendant Lansky  
18 offered no support to his claim of the common interest or law enforcement privileges –  
19 because he cannot claim such privileges. Defendants also offer no explanation as to how  
20 their communications with Downstream Providers, or documents related to payments made  
21 to those providers, could plausibly be protected by the attorney-client privilege – again,  
22 because no such explanation exists. Likewise, Defendants’ assertion that documents  
23 relating to their own affirmative defenses – information that Plaintiffs are entitled to in  
24 order to litigate this case effectively – are privileged is equally baseless. Defendants cannot  
25 wield their affirmative defenses as both a sword against Plaintiffs’ claims and a shield from  
26 discovery through blanket privilege assertions. Accordingly, Defendants must provide  
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supplemental responses, without objection, to certain Requests.<sup>9</sup>

**IV. DEFENDANTS' DOCUMENT PRODUCTION IS INSUFFICIENT OR NONEXISTENT AND DOES NOT COMPLY WITH THE ESI ORDER.**

After agreement from counsel, the Court entered the ESI Order [Dkt. #120] on July 10, 2025. Among the Order's most important provisions were: Bates numbering on all documents, indicating which documents were responsive to which Requests, producing all documents with a parent-child relationship and that ESI will be produced in rolling production within five days of serving written response. *See* ESI Order Appendix A, Paragraph A.14; ESI Order Section A(2); ESI Order Appendix A, Paragraph A.4; ESI Order Section B(1)(a). Defendant Reeves sent her first document production on July 11, 2025. Despite defense counsel's insistence otherwise, no documents in the Reeves production were Bates numbered, and Bates numbered versions of those documents were not produced until August 14. Defendant Reeves' production still failed to indicate which documents are responsive to which Requests and failed to produce all documents with a parent-child relationship. Furthermore, Defendants Avid Telecom and Lansky have yet to produce a single responsive document to the Plaintiffs' Requests contrary to the provisions of the ESI order. As such, Defendant Reeves must immediately correct the identified deficiencies, and Defendants Avid Telecom and Lansky must begin producing long overdue document production.

**V. CONCLUSION**

Defendants' flagrant abuse of their discovery obligations and persistent obstructive tactics have caused significant delays in this case. Despite Plaintiffs' repeated good-faith efforts to meet and confer in order to resolve these deficiencies without burdening the Court, Defendants' obstruction has continued unabated. Plaintiffs are therefore left with no choice but to seek judicial relief, including leave to file motions to compel and the appointment of a discovery referee or magistrate to ensure Defendants' compliance.

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<sup>9</sup> For Defendant Reeves, Request Nos. 56-62, 64, 66-80, 85, 87-88; for Defendant Avid Telecom, Request Nos. 25-26, 40, 43, 45, 46-47, 56, 61-63, 64 subsections a-i, 65, 67-71, 73-75, 77-91, 96-97; and Defendant Lansky, Nos. 2-9, 21-25, 28-30, 38-44, 46-47, 49-55, 57, 59-62, 64, 81-82, 90-91, 97-102.

1 RESPECTFULLY SUBMITTED this 27th day of August, 2025.

2  
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**CERTIFICATE OF SERVICE**

Pursuant to FEDERAL RULE OF CIVIL PROCEDURE 5(a), I hereby certify that on August 27, 2025, a true and correct copy of the above and foregoing document has been served using the CM/ECF system to all counsel and parties of record.

/s/ Belen O. Miranda